

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Petition Pursuant to 47 U.S.C. § 160 for
Forbearance from the Commercial Mobile Radio
Services Number Portability Obligation**

WT Docket No. 01-184

**OPPOSITION
OF THE
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

**ASSOCIATION OF COMMUNICATIONS
ENTERPRISES
Charles C. Hunter
Catherine M. Hannan
HUNTER COMMUNICATIONS LAW GROUP
1424 Sixteenth Street, N.W.
Suite 105
Washington, D.C. 20036
(202) 293-2500**

September 21, 2001

Its Attorneys

TABLE OF CONTENTS

	<u>Page</u>
I. Verizon has Failed to Satisfy the Statutory Test for the Forbearance It Seeks	3
II. Verizon Effort to Decouple Wireless Service Provider Number Portability and Number Conservation Should be Rejected	15
III. Conclusion	18

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Petition Pursuant to 47 U.S.C. § 160 for
Forbearance from the Commercial Mobile Radio
Services Number Portability Obligation**

WT Docket No. 01-184

**OPPOSITION OF THE
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

The Association of Communications Enterprises ("ASCENT"),¹ through undersigned counsel and pursuant to *Public Notice*, DA 01-1872 (released August 7, 2001), hereby opposes the "Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation" (the "Petition") filed by Verizon Wireless ("Verizon") in the captioned proceeding on July 26, 2001.² As ASCENT will demonstrate below, Verizon has failed to demonstrate that relieving commercial mobile radio service ("CMRS") providers from their obligation to support service provider local number portability ("LNP") is consistent with the public interest as required by Section 10 of the Communications Act of 1934, as amended by the

¹ ASCENT is a national trade association representing smaller providers of competitive telecommunications and information services. ASCENT was created, and carries a continuing mandate, to foster and promote the competitive provision of telecommunications and information services, to support the competitive communications industry, and to protect and further the interests of entities engaged in the competitive provision of telecommunications and information services.

² While Verizon captions its filing a petition for "partial forbearance," the carrier seeks full and permanent forbearance from the obligation to support service provider local number portability.

Telecommunications Act of 1996 (the “Act”).³ Accordingly, ASCENT urges the Commission to deny Verizon’s Petition, and to direct CMRS providers to implement service provider LNP in the top 100 Metropolitan Statistical Areas (“MSAs”) by November 24, 2002, as required by Section 52.31 of the Commission’s Rules.⁴

Verizon urges the Commission to relieve it and other CMRS providers from “the separate mandate that CMRS providers be capable, . . . by November 2002, of transferring a customer’s telephone number to or from another carrier, referred to as local number portability.”⁵

According to Verizon, “the complex technical burdens and expenses” that the carrier asserts are associated with implementation of LNP are neither “justified by tangible competitive benefits” nor necessary “to protect against unreasonable rates, terms and conditions or to protect subscribers.”⁶

Moreover, Verizon opines, deployment of LNP capability is not necessary to enable CMRS providers to participate in thousand block number pooling, and that compelling CMRS providers to implement LNP would require them to effect burdensome “technical and operational upgrades” not associated with pooling capability.⁷

³ 47 U.S.C. § 160.

⁴ 47 C.F.R. § 52.31.

⁵ Petition at 2.

⁶ Id.

⁷ Id. at 3 - 4.

**I. **Verizon has Failed to Satisfy the Statutory
Test for the Forbearance It Seeks****

Section 10 of the Act authorizes the Commission to "forbear from applying any regulation or any provision of [the Communications Act] to a telecommunications carrier" only if it first "determines that (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier . . . are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest."⁸ Moreover, the Act requires the Commission to assess "whether forbearance will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services."⁹

⁸ 47 U.S.C. § 160(a).

⁹ 47 U.S.C. § 160(b).

The twin purposes of service provider number portability are the promotion of competition and the furtherance of consumer welfare through the enhancement of service quality, affordability and variety. As the Commission long ago recognized, “[n]umber portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers.”¹⁰

“The ability of end users to retain their telephone numbers when changing service providers,” the Commission reasoned, “gives customers flexibility in the quality, price and variety of telecommunications services they can choose to purchase.”¹¹ Accordingly, the burden Verizon bears in attempting to justify Commission forbearance from enforcing the pro-competitive, consumer-oriented obligation of CMRS providers to support service provider LNP is exceedingly high.

In its initial assessment of service provider LNP in the context of CMRS, the Commission recognized that service provider number portability would promote competition both among CMRS providers and between CMRS providers and wireline service providers.¹² And, the Commission concluded, such competition would redound directly to the benefit of consumers. As described by the Commission, “[r]emoving barriers, such as the requirement of changing telephone

¹⁰ Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352, ¶ 30 (1996) (*subsequent history omitted*). The Commission’s conclusions echoed its assessment of number portability in the toll free interexchange environment. “[N]umber portability’ would promote competition in the 800 market by allowing current 800 subscribers to switch IXCs without abandoning their 800 number and new 800 subscribers to select an IXC to carry their traffic without being limited to the 800 numbers assigned that carrier.” Provision of Access for 800 Service (Report and Order), 4 FCC Rcd. 2824, ¶ 2 (1989) (*subsequent history omitted*).

¹¹ Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 30. Likewise, the Commission earlier recognized in the toll free environment that “number portability . . . enabl[ed] customers to respond to price and service changes without changing their 800 number.” Provision of Access for 800 Service (Report and Order), 4 FCC Rcd. 2824 at ¶ 11.

¹² Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶¶ 155 - 61.

numbers when changing providers, will likely stimulate the development of new services and technologies, and create incentives for carriers to lower prices and costs.”¹³ Moreover, “service provider portability will encourage CMRS-wireline competition, creating incentives for carriers to reduce prices for telecommunications services and to invest in innovative technologies, and enhancing flexibility for users of telecommunications services.”¹⁴

¹³ Id. at ¶ 158.

¹⁴ Id. at ¶ 160.

The Commission has held strongly to this assessment in the face of persistent efforts by the major CMRS providers to avoid deployment of service provider LNP. On reconsideration of the afore-referenced holdings, the Commission enumerated anew the “positive competitive results that . . . [were] likely to be produced [by wireless service provider portability]” in “[s]etting specific deadlines” for LNP implementation.¹⁵ And again when major CMRS providers initially sought to avoid their service provider number portability obligations, the Commission continued to emphasize the “important benefits” wireless LNP would provide wireless consumers, referencing again the incentives it would provide carriers “to provide innovative service offerings, higher quality services and lower prices.”¹⁶ In so doing, the Commission “emphasize[d] that the competitive reasons that [first] led . . . [it] to mandate wireless number portability . . . remain[ed] fundamentally sound.”¹⁷ Moreover, the Commission posited that “the ability of customers to port numbers both to and from wireless carriers . . . [was] likely to be an increasingly important factor in consumer choice,” particularly as consumers began to “view their wireless phones as a potential substitute for their

¹⁵ Telephone Number Portability (Memorandum Opinion and Order on Reconsideration), 12 FCC Rcd. 7239, ¶ 135 (1997) (*subsequent history omitted*).

¹⁶ Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations (Memorandum Opinion and Order), 14 FCC Rcd. 3092, ¶ 23 (1999) (*subsequent history omitted*).

¹⁷ Id. at ¶ 39.

wireline phones.”¹⁸

Verizon now asks the Commission to execute a complete “about-face” and hold that wireless service provider LNP is not necessary to promote competition or to benefit consumers. And, Verizon further urges, the Commission should also find that deployment of wireless service provider LNP would not further the public interest because it is not necessary to enable CMRS providers to participate in thousand block number pooling and would syphon resources away from network build-outs and upgrades. The words are a bit different, but it is the same song the large CMRS providers have been singing for the past five years.

¹⁸

Id. at ¶ 23.

As an initial matter, the importance to consumers of the ability to “port” their wireless number from one carrier to another is, as the Commission has recognized, becoming “an increasingly important factor in consumer choice.”¹⁹ A survey of wireless subscribers undertaken as part of a wireless number portability feasibility study and cost/benefit analysis undertaken on behalf of the Hong Kong Office of Telecommunications Authority, for example, found that by far and away the greatest identified constraint against switching wireless service providers was the need to change wireless phone numbers.²⁰ Among personal subscribers, 59 percent cited the inability to retain the same number as an impediment to carrier changes, while only 11 percent identified the cost of a new handset as such a constraint.²¹ Business users were even more adamant, with 64 percent and 84 percent, respectively, of small business and large business users identifying the need to change wireless phone numbers as an impediment to changing carriers, while only 5 percent and 8 percent, respectively, of small business and large business users cited the cost of a new handset

¹⁹ Id.

²⁰ Feasibility Study and Cost Benefit Analysis of Number Portability for Mobile Services in Hong Kong conducted by National Economic Research Associates for the Hong Kong Office of Telecommunications Authority at Appendix D (May 1998) (“Hong Kong Mobile Services Number Portability Report”). The Hong Kong Mobile Services Number Portability Report is available at <http://www.ofta.gov.hk/report-paper-guide/report/mnp-fin.pdf>.

²¹ Id. at p. 136.

as such a constraint.²²

²² Id. at pp. 136, 141. As the Commission has recognized, “[b]usiness customers, in particular, may be reluctant to incur the administrative, marketing, and goodwill costs associated with changing telephone numbers.” Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 31.

While consumers may at one time have been “reluctant to distribute their CMRS telephone numbers,”²³ and hence not been overly concerned with a lack of wireless service provider number portability, that reluctance has been waning as consumers have begun to substitute wireless phones for wireline phones. This trend will undoubtedly continue as wireless carriers offer “service plans designed to compete directly with wireline local telephone service.”²⁴ As the Commission predicted,²⁵ a growing percentage of “mobile telephone subscribers rely on their wireless phone as their only phone,” and/or are “purchas[ing] . . . wireless phone[s] instead of installing . . . additional wireline phone[s].”²⁶

²³ Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 161.

²⁴ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act Of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192, pp. 32 - 34 (July 17, 2001).

²⁵ Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 161.

²⁶ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act Of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192 at pp. 32 - 33.

Verizon opines, however, that consumers presently “exercise their prerogative to switch service providers whenever they are dissatisfied . . . without LNP,” citing current “churn rates” as evidence that wireless service provider number portability is not necessary.²⁷ As reported by the Commission, wireless churn rates currently run between 1.5 percent and 3 percent per month.²⁸ The current rate of carrier changes suggests only that some percentage of consumers are willing to change phone numbers to leave their existing carriers; it does not mean that other consumers do not feel constrained to stay with their current carrier solely to retain their phone numbers. The Hong Kong experience is again instructive here. From the first twelve months following deployment of wireless service provider number portability -- *i.e.*, March 1999 - February 2000 -- to the most recent six months in which data is available -- *i.e.*, March 2001 - August 2001 -- the average monthly volume of “mobile number portings” has more than doubled,²⁹ strongly suggesting that many consumers remain captive to their current wireless provider because of a lack of wireless service provider number portability. And confirming this assessment, wireless churn rates in Hong Kong currently range upward to 55 per cent annually.³⁰ As described by the Hong Kong Office of Telecommunications Authority, implementation of wireless LNP “removed the final

²⁷ Petition at pp. 22 - 23.

²⁸ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act Of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192 at pp. 23 - 24.

²⁹ Statistics of Mobile Number Portings, available at <http://www.ofta.gov.hk/mnp/mnp-statistics.html>.

³⁰ Hong Kong Mobile Services Number Portability Report at Appendix A, p. 115. Remarkably, the Commission seemingly anticipated consumer sentiments, noting its belief five years ago that “[s]ervice provider portability, by eliminating one major disincentive to switch [wireless] carriers, will ameliorate customers’ disincentive to switch carriers if they must purchase new equipment.” Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 157.

significant barrier to freedom of customer choice and effective competition in the market for mobile phone service.”³¹

³¹ Hong Kong Annual Report 1999, available at http://www.info.gov.hk/hkar99/eng/18/18_11_content.html. Other nations, such as Singapore, the United Kingdom, and the Netherlands, have come to like conclusions, implementing wireless service provider number portability to promote competition. Hong Kong Mobile Services Number Portability Report at pp. 11 - 12.

Verizon is essentially contending that current levels of competition within the wireless market and between CMRS providers and wireline service providers are sufficient, rendering wireless service provider number portability superfluous. ASCENT submits that Verizon's view of competition is far too limited in both scope and degree. Initially, the CMRS market is far from perfectly competitive. The largest four carriers currently control more than 70 percent of the market, up from less than 40 percent one year ago, evidencing a dramatic concentration of market share in a small number of providers.³² And while prices continue to decline, average monthly revenues per subscriber have now begun to rise after more than a decade of decline, increasing at an escalating pace over the last two years.³³

Other signs of competitive deficiencies are also present. For example, the twenty largest resale carriers currently serve less than three percent of wireless subscribers, evidencing the continued existence of resale restrictions.³⁴ As the Commission has long recognized, "the ability of . . . [a carrier] to impose resale restrictions and conditions is likely to be evidence of market power and may reflect an attempt by . . . [the carrier] to preserve . . . [its] market position."³⁵ While deployment of wireless service provider number portability would enhance the competitive posture of resale carriers generally by allowing such carriers to move their customers among wholesale providers to take advantage of lower prices and enhanced service quality and diversity, it would also

³² Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192 at pp. 14 - 19, Appendix C, p. C-4.

³³ Id. at pp. 23, 27 - 28, Appendix C, p. C-2.

³⁴ Id. at pp. 34 - 35.

³⁵ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (First Report and Order), 11 FCC Rcd. 15499, ¶ 939 (1996) (*subsequent history omitted*).

facilitate (and hence encourage the necessary investments in) the transition of resale carriers to facilities-based providers by allowing the transitioning resale carriers to migrate their current customers to their new facilities without number changes.

While Verizon touts the emerging competition between CMRS providers and wireline carriers, its argument proves too much. Certainly, the “3 percent of mobile telephone subscribers [who] rely on their wireless phone as their only phone”³⁶ confirm the Commission’s assessment that customers will increasingly “view their wireless phones as a potential substitute for their wireline phones,”³⁷ but the modest extent of the cross-over suggests the continued presence of significant impediments. For example, in 1998, BellSouth Corporation (“BellSouth”), one of the two principals in Cingular Wireless, LLC (“Cingular”), reported to the Commission that “7 to 15 percent of BellSouth’s local residential customers in New Orleans” would consider replacing their wireline telephone with a wireless phone “on price grounds alone.”³⁸ Of course, one of the questions raised by the Commission in assessing this contention was whether “the willingness of customers to pay a premium for PCS could potentially be affected by disadvantages such as the fact

³⁶ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192 at p. 32.

³⁷ Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations (Memorandum Opinion and Order), 14 FCC Rcd.3092 at ¶ 23.

³⁸ Application of Bell South Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana (Memorandum Opinion and Order), 13 FCC Rcd. 20599, ¶ 40 (1998) (*subsequent history omitted*).

that wireline telephone numbers are not presently portable to wireless carriers.”³⁹ The absence of wireless service provider number portability undoubtedly has contributed to the status of CMRS substitution for

³⁹ Id. at ¶ 32.

wireline local exchange service as, what the Commission has currently characterized as, a “limited phenomenon.”⁴⁰

The importance of wireless as an alternative to wireline local service has become increasingly important given the recent travails of the competitive local exchange industry. In the six years following enactment of the Telecommunications Act of 1996, competitive local exchange carriers have captured less than ten percent of the local market.⁴¹ And a significant percentage of the largest of these competitive providers have fallen victim to the recent drought in investment capital, leaving cloudy the prospects for increased market penetration by the competitive carrier community. Thus, the Commission has taken a number of actions designed to “promote the ability of service providers using wireless technology to compete with the incumbent LECs.”⁴² One of

⁴⁰ Promotion of Competitive Networks in Local Telecommunications Markets (Notice of Proposed Rulemaking and Notice of Inquiry), 14 FCC Rcd. 12673, ¶ 13 (1999).

⁴¹ Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Trends in Telephone Service, p. 9-1 (August 2001).

⁴² Promotion of Competitive Networks in Local Telecommunications Markets (Notice of Proposed Rulemaking and Notice of Inquiry), 14 FCC Rcd. 12673 at ¶10. Indeed, the Commission recognized more than five years ago that “[t]he development of CMRS is one of several potential sources of competition . . . identified to bring market forces to bear on the existing LECs,” noting that “CMRS providers, such as broadband PCS and cellular, will compete in the local exchange marketplace.” Telephone Number

these actions obviously was the mandated deployment of wireless service provider number portability, a matter which the Commission has recognized will become an “increasingly important factor in consumer choice” as consumers more and more “view their wireless phones as a potential substitute for their wireline phones.”⁴³

Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 160.

⁴³ Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations (Memorandum Opinion and Order), 14 FCC Rcd.3092 at ¶ 23.

Accordingly, absent a strong countervailing public interest showing, there can be no justification for the relief Verizon seeks here. Wireless service provider number portability would promote competition both within the CMRS market and between CMRS providers and wireline local exchange carriers, while forbearance from enforcing the requirement that CMRS providers support LNP would hinder competition. Wireless service provider number portability would enhance consumer choice, providing consumers greater flexibility to avail themselves of the benefits of price and service competition, while forbearance from enforcing the requirement that CMRS providers support LNP would deny consumers greater choice. All of the rationales that prompted Congress and the Commission to drive number portability in landline markets are thus equally applicable in the wireless environment.⁴⁴

⁴⁴ Also equally applicable in the wireless environment is the Commission's recognition that "regulatory intervention" is necessary to ensure the deployment of service provider number portability because carriers will never voluntarily facilitate customer movement away from their services. *Id.* at ¶¶ 20, 41.

Verizon, however, asserts that such countervailing public interest rationales exist.

Thus, the carrier claims that forbearance will allow carriers both to “focus on pooling” and to “focus on pro-competitive network buildouts and upgrades.”⁴⁵ With respect to the former, Verizon opines that “[t]he financial and personnel resources needed to support . . . [the LNP-related] upgrades should instead be focused on pooling, . . . achieving tangible public interest benefits, without devoting resources to a mandate that lacks such clear benefits.”⁴⁶ As to the latter, Verizon declares that carriers should be “allow[ed] to devote scarce resources to building their coverage and expanding their footprint to serve more customers,” and should not be required to deploy LNP capability at the same time they are “facing increasing demands on network resources to provide previously untested and technically complex services, such as Enhanced 911, and to interconnect with new competitive carriers.”⁴⁷

Verizon’s declarations are most remarkable for the complete absence of any supporting quantifiable data. The Commission has made it crystal clear that forbearance requests must be supported by “more than broad, unsupported allegations.”⁴⁸ The burden of justifying Commission forbearance falls upon the petitioning party.⁴⁹ Simply asserting that implementing service provider number portability would interfere with other activities falls well short of the showing necessary to satisfy this burden. Indeed, Verizon makes no effort to quantify either the cost

⁴⁵ Petition at pp. 24 - 29.

⁴⁶ Id. at pp. 25 - 26.

⁴⁷ Id. at 27 - 28.

⁴⁸ Hyperion Telecommunications, Inc. Petition Requesting Forbearance (Memorandum Opinion and Order), 12 FCC Rcd. 8596, ¶ 21 (1997) (*subsequent history omitted*).

⁴⁹ Policy and Rules Concerning the Interstate Interexchange Marketplace (Memorandum Opinion and Order), 14 FCC Rcd. 391, ¶ 29 (1998).

of service provider number portability deployment or the activities with which such deployment would purportedly interfere. Remarkably, Verizon does not include a single dollar figure in its entire Petition.

This glaring omission is understandable in light of the cost of implementing service provider number portability relative to the cumulative capital already invested by CMRS providers in their systems. The Commission has noted estimates that the wireless industry as a whole “will need to spend up to \$1 billion to implement wireless number portability, including software and network modifications.”⁵⁰ Even if we are to assume that this figure does not include amounts that would be expended to implement “the Location Routing Number (“LRN”)-based network architecture that is needed for the implementation of thousand block number pooling,”⁵¹ it only represents roughly one percent of the cumulative capital invested by CMRS providers in their systems.⁵² Or looked at from a different angle, it represents roughly \$10 per subscriber.⁵³ Amortized over five years, this equates to less than \$0.10 per subscriber per month, a value that must be compared with average per subscriber monthly revenues of over \$45.00.⁵⁴

Given the lack of financial data, it is not surprising that Verizon fails to show that

⁵⁰ Telephone Number Portability (First Report and Order), 11 FCC Rcd. 8352 at ¶ 37.

⁵¹ Petition at p. 2. It is rather apparent from the Petition, that much of the network modification costs included in the \$1 billion cost figure are associated with LRN deployment.

⁵² Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service (Sixth Report), FCC 01-192 at Appendix C, p. C-2.

⁵³ Id.

⁵⁴ Id. at p. 23. It bears emphasis that the Commission afforded CMRS providers additional time implement service provider number portability precisely so that the deployment of such capability could be absorbed into the normal business cycle. Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations (Memorandum Opinion and Order), 14 FCC Rcd.3092 at ¶¶ 37 - 40.

deployment of LNP capability cannot proceed in tandem with the implementation of number pooling and the expansion and upgrading of networks. To the contrary, the carrier simply complains that it does not want to undertake the additional effort required to provide for service provider number portability. Such complaints are wholly inadequate to satisfy the burden imposed by Section 10 of the Act.

Also lacking in Verizon's showing is an explanation of how the benefits of the Commission's wireless LNP requirements will be achieved in the event of forbearance were authorized. The Commission has made clear that "to meet the public interest forbearance criterion, a petitioner must explain how the benefits of a . . . [regulation] can be attained in the event of forbearance."⁵⁵ Verizon simply rails against the burden associated with attaining LNP capability, but nowhere explains how the benefits that would flow to consumers from deployment of wireless service provider number portability would be attained in the absence of LNP capability.

In short, Verizon has not shown, as required by Section 10 of the Act as a prerequisite for the relief it seeks here, that forbearing from requiring CMRS providers to deploy service provider number portability would be consistent with the public interest. Hence, the Commission cannot grant Verizon's forbearance request.

II. Verizon's Effort to Decouple Wireless Service Provider Portability and Number Conservation Should be Rejected

⁵⁵ Petition of Ameritech Corporation for Forbearance from Enforcement of Section 275(a) of the Communications Act of 1934, as Amended (Memorandum Opinion and Order), 15 FCC Rcd. 7066, ¶ 7 (1999) (*subsequent history omitted*); Policy and Rules Concerning the Interstate Interexchange Marketplace (Memorandum Opinion and Order), 14 FCC Rcd. 391 at ¶ 31.

Verizon makes much of the fact that its is seeking relief “only from the LNP obligation, not from the requirement that CMRS carriers participate in number pooling.”⁵⁶ According to Verizon, it has “accept[ed] the obligation to implement the Location Routing Number (“LRN”)-based network architecture that is needed for the implementation of thousand block number pooling (“TBNP”)” and “is working toward meeting the November 2002 deadline for CMRS providers to participate in states’ number pooling programs.”⁵⁷ “Verizon agrees that pooling will promote the important goals of number optimization and conservation of numbering resources.”⁵⁸ The carrier simply wants to be freed from the “significant additional burdens of complying with LNP.”⁵⁹

Verizon’s argument in this respect is a smokescreen. Initially, the carrier concedes that the bulk of the network upgrades necessary to implement number pooling are also integral to the deployment of service provider number portability. Thus, Verizon concedes that “TBNP requires implementation of the LRN network architecture, including MIN/MDN separation, roaming system changes, and NPAC pooling functional requirements.”⁶⁰ LRN network architecture serves as the technological foundation for LNP as well as for pooling. As the Commission has recognized, “most carriers intend to provide long-term number portability through location routing number

⁵⁶ Petition at p. 1.

⁵⁷ Id. at p. 2.

⁵⁸ Id. at p. 25.

⁵⁹ Id. at p. 4.

⁶⁰ Id. at p. 11.

(LRN) architecture.”⁶¹ Hence, in implementing number pooling, Verizon has effected the bulk of the network changes required to deploy service provider LNP.

⁶¹ Telephone Number Portability (Third Report and Order), 13 FCC Rcd. 11701, ¶ 12 (1998) (*subsequent history omitted*).

The “complex technical burdens and expenses” associated with service provider number portability, but not number pooling, of which Verizon complains so bitterly are generally limited to changes to “billing systems, customer records, point of sale and customer care systems.”⁶² Such changes involve “inter-carrier communications, customer service and the management of customer records;”⁶³ they do not involve major network modifications. The cost of these fringe modifications is undoubtedly a mere fraction of the \$1 billion price tag put on industry-wide implementation of wireless service provider number portability. How small a percentage, however, is unknown because Verizon did not bother to include any cost data with its Petition.

Also noteworthy with regard to Verizon’s efforts to decouple wireless LNP and number conservation is the number conservation element of service provider number portability. Obviously, a wireless number surrendered by a consumer cannot be immediately reused by another wireless subscriber without inflicting upon the latter the significant costs associated with calls made to the former. Hence, wireless service provider number portability allows for more efficient use of numbering resources by allowing a consumer to continue to use the same number after changing carriers.

III. Conclusion

By reason of the foregoing, the Association of Communications Enterprises strongly urges the Commission to deny as contrary to the public interest the relief sought here by Verizon Wireless from the obligation of CMRS providers to support service provider number portability.

⁶² Petition at p. 10.

⁶³ Id. at Appendix, p. 6.

In addressing Verizon's request, ASCENT urges the Commission to heed its assessment of a like request voiced a mere two years past and reaffirmed little more than a year ago:

we reject the argument made by some commenters that the record supports complete forbearance from enforcing our wireless number portability requirements. We emphasize that the competitive reasons that led us to mandate wireless number portability in the *First Report and Order* remain fundamentally valid; we sought to increase competition both within the CMRS marketplace and with wireline carriers, and found that this competition would provide incentives for all carriers to provide innovative service offerings, higher quality services and lower prices. We remain committed to the basic regulatory approach outlined in prior orders in this proceeding.⁶⁴

And in so doing, ASCENT urges the Commission to move to secure for consumers and competitors alike the long-awaited pro-competitive benefits of wireless service provider number portability.

Respectfully submitted,

**ASSOCIATION OF COMMUNICATIONS
ENTERPRISES**

By: _____

Charles C. Hunter
Catherine M. Hannan
HUNTER COMMUNICATIONS LAW GROUP
1424 Sixteenth Street, N.W.
Suite 105
Washington, D.C. 20036
(202) 293-2500

September 21, 2001

Its Attorneys.

⁶⁴ Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations (Memorandum Opinion and Order), 14 FCC Rcd.3092 at ¶ 40.

CERTIFICATE OF SERVICE

I, Charles C. Hunter, do hereby certify that a true and correct copy of the foregoing document has been served by the United States First Class Mail, postage prepaid, on the individuals listed below, on this 21st day of September 2001.

John T. Scott, III
Anne E. Hoskins
Lolita D. Smith
Verizon Wireless
1300 I Street, N. W.,
Suite 400 West
Washington, D.C. 20005

Charles C. Hunter